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FACSIMILE COVER SHEET

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DATE: January 17, 2007

TO: Examiner Anthony Derrell Barfield
Group Art Unit 3636

FAX #: 571-273-8300

PHONE #: 571-272-6852

Application No.: 10/773,094
Applicant: Weber et al.
Due Date: N/A

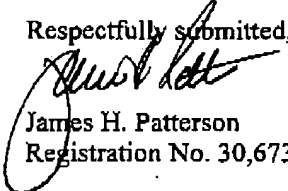
OUR REF.: 1088.166US01

FROM: James H. Patterson
PHONE #: 612-349-5741

Attached please find the following for filing in the above-identified application:

- (1) Request for Withdrawal of Holding of Abandonment (2 pages);
- (2) Copy of Return Postcard, check for \$1,020.00 for three month extension fee, Petition for Extension of Period for Response, and Amendment mailed January 5, 2007 (16 pages)
- (3) Copy of date-stamped postcard receipt (1 page);
- (4) Printout from PAIR (3 pages)

Respectfully submitted,


James H. Patterson
Registration No. 30,673

CERTIFICATE OF FACSIMILE TRANSMISSION

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JAN 17 2007

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 1088.166US01

Weber et al.

Confirmation No.: 3285

Application No.: 10/773,094

Examiner: Anthony Derrell Barfield

Filed: February 5, 2004

Group Art Unit: 3636

For: MUSIC POSTURE CHAIR

REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request withdrawal of the January 11, 2007 Notice of Abandonment on the grounds that a complete response to the July 5, 2006 Office Action was filed and received by the Patent Office. Attached to this request are:

- (a) a copy of an Amendment, mailed to the Patent Office on January 5, 2007;
- (b) a date-stamped postcard receipt indicating that the Patent Office in fact received the Amendment on January 8, 2007; and
- (c) printout from PAIR showing the Amendment with a January 8, 2007 Mail Room Date.

The attached materials serve as prima facie evidence of receipt in the Patent Office of the Amendment. MPEP § 503. In view of the foregoing, Applicants request that the January 11, 2007 Notice of Abandonment be withdrawn.

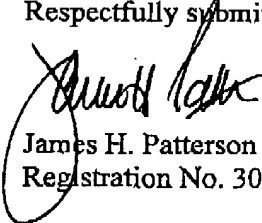
Application No. 10/773,094

In view of the Amendment received by the Patent Office on January 8, 2007, Applicants submit that the above-identified application is in condition for allowance.

No fees are believed due in connection with this paper. However, the Commissioner is authorized to charge any fees that may be due to our Deposit Account No. 16-0631.

The Examiner is invited to telephone the undersigned if desirable to advance prosecution.

Respectfully submitted,



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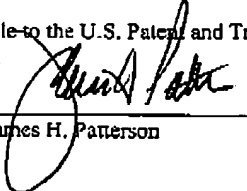
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James H. Patterson

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acknowledges the filing on the date stamped of:
Petition for Extension of Period for Response; check for \$1,020.00 for
three month extension fee; Amendment (14 pages); return postcard.

Applicant: Weber et al.
Application No.: 10/773,094
File No.: 1088.166-US-01
Due Date: January 5, 2007
Initials: JHP/PBS/vpm
Mailed: January 5, 2007 (via First Class Mail)

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JAN 17 2007

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 1088.166US01

Weber et al.

Confirmation No.: 3285

Application No.: 10/773,094

Examiner: Anthony Derrell Barfield

Filed: February 5, 2004

Group Art Unit: 3636

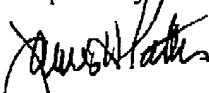
For: MUSIC POSTURE CHAIR

PETITION FOR EXTENSION OF PERIOD FOR RESPONSE
UNDER 37 C.F.R. § 1.136(a)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.136(a), an extension of time of three (3) months (from October 5, 2006 to January 5, 2007) within which to respond to the Office Action dated July 5, 2006 is requested. A check in the amount of \$1,020.00 is enclosed herewith to cover the extension fee. The Commissioner is authorized to charge to Deposit Account No. 16-0631 any underpayments, overpayments or additionally required fees.

Respectfully submitted,

James H. Patterson
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Telephone: (612) 349-5741*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 1088.166US01

Weber et al.

Confirmation No.: 3285

Application No.: 10/773,094

Examiner: Anthony Derrell Barfield

Filed: February 5, 2004

Group Art Unit: 3636

For: MUSIC POSTURE CHAIR

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

In response to the Office Action of July 5, 2006, and in accordance with the automatic extension of time for response provided by 37 C.F.R. § 1.136(a), amendment to the above-identified patent application is requested.

The present amendment comprises the following sections:

A. Amendments to the Claims

B. Remarks

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Application No. 10/773,094

AMENDMENTS TO THE CLAIMS

A detailed listing of all claims that are, or were, in the present application, irrespective of whether the claim(s) remains under examination in the application are presented below. The claims are presented in ascending order and each includes one status identifier. Those claims not cancelled or withdrawn but amended by the current amendment utilize the following notations for amendment: 1. deleted matter is shown by strikethrough for six or more characters and double brackets for five or less characters; and 2. added matter is shown by underlining.

1. (Currently Amended) A music posture chair comprising:

a frame having

i) a seat portion,

ii) a back portion, the back portion comprising two side railsand a top rail extending between the two side rails, and

iii) a plurality of legs;

a seat operably attached to the seat portion; and

a back operably attached to the side rails and the top rail of the back portion, wherein the back is oriented with respect to the seat at an angle of between ninety and one hundred twenty degrees, and wherein the back has a deflection region proximate a lower edge thereof to enhance diaphragmatic breathing of a vocal or wind ~~instrumentalist~~ musician who is performing while sitting in the music posture chair.

2. (Original) The music posture chair of claim 1, wherein the back includes an edge that extends around at least a portion of an outer side surface and a back surface of the back portion.

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3. (Original) The music posture chair of claim 2, wherein the back includes at least one spacer that maintains the back a selected distance from a front surface of the back portion.
4. (Original) The music posture chair of claim 3, wherein the deflection region extends substantially between opposite sides of the back proximate a lower portion of the back.
5. (Original) The music posture chair of claim 1, wherein the back is oriented with respect to the seat at an angle of about one hundred three degrees.
6. (Original) The music posture chair of claim 1, wherein the seat includes two laterally spaced apart thigh support planes that are each oriented at an angle of between about three degrees above horizontal to ten degrees below horizontal from back to front.
7. (Original) The music posture chair of claim 6, wherein the seat includes a pelvis support plane lying along a longitudinal center line of the seat.
8. (Original) The music posture chair of claim 7, wherein the thigh support planes and the pelvis support plane are contoured to redistribute the musician's weight throughout the buttock and thigh area.

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9. (Original) The music posture chair of claim 7, wherein a back of the musician is positioned relative to the pelvis support plane in a natural and relaxed sacro-lumbar curve so that upper body weight supported by a musician's spine are in balance.

10. (Currently Amended) A music posture chair comprising:

a frame having

i) a seat portion,

ii) a back portion, the back portion comprising two side rails and a top rail extending between the two side rails, and

iii) a plurality of legs;

a seat operably attached to the seat portion; and

a back attached to the side rails and the top rail of the back portion and comprising:

a central region having an upper edge, a lower edge and a pair of side edges that each extend between the upper edge and the lower edge;

an end panel that extends along at least a portion of the upper edge and the side edges and at least partially surrounding the side rails and top rails of the back portion; [[and]]

a spacer that maintains the central region in a spaced-apart relationship with respect to the side rails and the top rail of the back portion to define; and

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a deflection region proximate the lower edge that extends substantially between the side edges.

11. (Original) The music posture chair of claim 10, wherein the back is oriented with respect to the seat at an angle of about one hundred three degrees.

12. (Original) The music posture chair of claim 10, wherein the seat includes two laterally spaced apart thigh support planes that are each oriented at an angle of between about three degrees above horizontal to ten degrees below horizontal from back to front.

13. (Original) The music posture chair of claim 12, wherein the seat includes a pelvis support plane lying along a longitudinal center line of the seat.

14. (Original) The music posture chair of claim 13, wherein the thigh support planes and the pelvis support plane are contoured to redistribute a musician's weight throughout buttock and thigh areas.

15. (Currently Amended) The music posture chair of claim 13, wherein a torso of [[the]] a musician is positioned relative to the pelvis support plane in a natural and relaxed sacro-lumbar curve so that upper body weight supported by the musician's spine [[are]] is in balance.

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16. (Currently Amended) A method of supporting a vocal or wind musician who is performing while seated, the method comprising:

providing a chair having ~~a seat, a back and a frame for supporting the seat~~
~~and back above a ground surface~~ having

i) a seat portion,

ii) a back portion, the back portion comprising two side rails
and a top rail extending between the two side rails, and

iii) a plurality of legs;

a seat operably attached to the seat portion; and

a back attached to the side rails and the top rail of the back portion and
comprising:

a central region having an upper edge, a lower edge and a pair of
side edges that each extend between the upper edge and the lower edge;

an end panel that extends along at least a portion of the upper edge
and the side edges and at least partially surrounding the side rails and top
rails of the back portion;

a spacer that maintains the central region in a spaced-apart
relationship with respect to the side rails and the top rail of the back
portion; and

a deflection region proximate the lower edge that extends substantially
between the side edges;

supporting the musician's thighs and pelvis with the seat;

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distributing the musician's weight across the seat to eliminate pressure points;

orienting the musician's pelvis with respect to the musician's torso in a natural and relaxed sacro-lumbar curve so that upper body weight supported by the musician's spine are in balance; and

deflecting a lower portion of the back in response to pressure from the musician's person's torso on the deflection region to provide the musician with proper diaphragmatic breathing.

17. (Original) The method of claim 16, wherein the back includes an edge that extends around at least a portion of an outer side surface and a back surface of the back portion.

18. (Original) The method of claim 17, and further comprising maintaining the back a selected distance from a front surface of the back portion with at least one spacer.

19. (Original) The method of claim 18, wherein the deflection region extends substantially between opposite sides of the back proximate a lower portion of the back.

20. (Original) The method of claim 16, and further comprising orienting the back with respect to the seat at an angle of about one hundred three degrees.

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21. (Original) The method of claim 16, wherein the seat includes two laterally spaced apart thigh support planes that are each oriented at an angle of between about three degrees above horizontal to ten degrees below horizontal from back to front.

22. (Original) The method of claim 21, wherein the seat includes a pelvis support plane lying along a longitudinal center line of the seat.

23. (Original) The method of claim 22, wherein the thigh support planes and the pelvis support plane are contoured to redistribute the musician's weight throughout the buttock and thigh area.

24. (Currently Amended) The method of claim 22, wherein a back of the musician is positioned relative to the pelvis support plane in a natural and relaxed sacro-lumbar curve so that upper body weight supported by ~~[[a]] the musician's spine [[are]]~~ is in balance.

25. (Currently Amended) A music posture chair for a performing musician comprising:
a frame having a seat portion, a back portion and a plurality of legs,
wherein the back portion comprises a pair of side rails and a top rail that extends
between the side rails, wherein the seat portion extends from the back portion, and
wherein the plurality of legs support the seat portion and the back portion above a
ground surface;

Application No. 10/773,094

a seat attached to the seat portion, wherein the height of the chair seat permits the musician to have both feet flat on the floor, and wherein the chair seat comprises:

two thigh support planes that are each oriented at an angle of between about three degrees above horizontal to ten degrees below horizontal from back to front and in combination with the height of the chair seat causes the thighs of the musician to slant downward toward the floor to open the angle between the abdomen and legs of the musician to enhance diaphragmatic breathing; and

a central support area forming a pelvis support plane comprising an area lying along a longitudinal center line of the seat;

a back attached to the side rails and the top rail of the back portion and comprising:

a central region having an upper edge, a lower edge and a pair of side edges that each extend between the upper edge and the lower edge;

an end panel that extends along at least a portion of the upper edge and the side edges and at least partially surrounding the side rails and top rails of the back portion;

a spacer that maintains the central region in a spaced-apart relationship with respect to the side rails and the top rail of the back portion; and

Application No. 10/773,094

a deflection region proximate the lower edge that extends substantially between the side edges and the back positioned so that a center line of the back intersects the thigh support plane at an angle within the range of ninety degrees to one hundred twenty-five degrees and intersects the pelvis support plane at a back edge of the pelvis support plane so that the back of the musician is precisely positioned relative to the pelvis support plane in a natural and relaxed sacro-lumbar curve so that the organs and upper body weight supported by the spine of the performer are in balance, and wherein the back comprises a deflection region that deflects in response to force from the musician's back to enhance the ability of the musician to experience diaphragmatic breathing.

26. (Original) The music posture chair of claim 25, wherein the chair seat has a back edge and a front edge and wherein the slope of the pelvis support plane is at an angle of about six degrees above horizontal from back to front.

27. (Original) The music posture chair of claim 25, wherein the angle of the backrest to the pelvis support plane is at an angle of between about ninety degrees to one hundred eighteen degrees.

Application No. 10/773,094

28. (Original) The music posture chair of claim 25, wherein the chair seat has a back edge and a front edge and wherein the pelvis support plane is at an angle of between about twenty degrees to three degrees above the thigh support plane from back to front.

29. (Original) The music posture chair of claim 25, wherein the pelvis support plane is at an angle of about three degrees above the thigh support plane.

30. (Original) The music posture chair of claim 25, wherein the height of the seat is within the range of sixteen and a half inches to eighteen and a half inches.

31. (Original) The music posture chair of claim 25, wherein the thigh support plane and the pelvis support plane are contoured to redistribute the weight of the musician throughout the buttock and thigh area.

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Application No. 10/773,094

REMARKS

Claims 1-31 are pending. By this Amendment, claims 1, 10, 15, 16, 24 and 25 are amended. Support for the amendments to 1, 10, 16, and 25 is found throughout the specification and, for example, in paragraph 39 of the published application (U.S. Publication 20050173954) and in Figure 7. Additionally, claims 1, 15, 16 and 24 have been amended to clarify antecedent basis for certain features of the invention. No new matter is added by these amendments. The rejections of the claims in the present application made in the Office Action will now be addressed in order.

Rejection of Claims 1-5 and 10-11 under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-5 and 10-11 under 35 U.S.C. § 102(b) over US 5,697,673 to Favaretto ("Favaretto"). This rejection is respectfully traversed. Favaretto discloses a chair having a back that *rotates* around an axis [See Figures 2 and 3] and therefore, Favaretto does not disclose a "deflection region" as claimed herein.

It is noted that each of claims 1 and 10 have been amended and currently specify that the frame has two side rails and a top rail extending between the two side rails. Additionally, these claims specify that the back is attached to the two side rails and the top rail. This configuration is not present in Favaretto. Rather, Favaretto discloses rotation of a chair back around an axis and lack a top rail extending between two side rails. Therefore, Favaretto does not anticipate claim 1 or claim 10. Claims 2-5 depend from claim 1 and claim 11 depends from claim 10. Therefore, claims 1-5 and claims 10-11 are patentable over Favaretto.

Application No. 10/773,094

Rejection of Claims 6-9, 12-15 and 21-31 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 6-9, 12-15 and 21-31 under 35 U.S.C. § 103(a) over Favaretto in view of US 1,917,264 to Kellogg ("Kellogg"). This rejection is respectfully traversed. It is noted that claim 5, from which claims 6-9 depend, claim 10 (from which claims 1-15 depend), claim 16 (from which claim 21-24 depend) and claim 25 (from which claim 26-31 depend) have been amended.

With respect to claims 1 and 10, Favaretto is inapplicable for the reasons set forth in the previous discussion of Favaretto. With respect to claims 16 and 25, these claims specify that the frame has two side rails and a top rail. Additionally, these claims specify that the back is attached to the two side rails and the top rail. For the reasons discussed above, the configuration claimed in claims 16 and 25 is not present in Favaretto.

With respect to Kellogg, a seat is disclosed that is "...shaped to conform to the curves of the human body and is generally inclined downwardly toward the rear as shown in Figure 1...". (See Page 2, Lines 57-60) It is unclear how where a "pelvis support of 'about' six degrees from the horizontal" is shown in Figure 1 as asserted by the Examiner. Moreover, it is unclear how a "pelvis support of 'about' six degrees from the horizontal" is relevant to the rejected claims.

In view of the foregoing, the combination of Favaretto with Kellogg does not render 6-9, 12-15 and 21-31 obvious under 35 U.S.C. § 103.

Rejection of Claim 16-20 under 35 U.S.C. § 103

The Examiner has rejected claims 16-20 under 35 U.S.C. § 103(a) over Favaretto asserting that "all of the teaching of the claimed invention [are shown] except the method steps" and that "The method steps as recited would have been incorporated within the use of the invention as taught by Favaretto." This rejection is respectfully traversed.

Application No. 10/773,094

Claims 17-20 depend from Claim 16. Claim 16 has been amended by this Amendment and currently specifies that the frame has two side rails and a top rail extending between the two side rails. Additionally, these claims specify that the back is attached to the two side rails and the top rail. This configuration is not present in Favaretto and, as discussed above, Favaretto does not disclose a top rail extending between two side rails. Therefore, Favaretto does *not* show all of the teaching of the claimed invention and cannot render claims 16-20 obvious under 35 U.S.C. § 103.

Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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Applicant: Weber et al.
Application No.: 10/773,094
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Due Date: January 5, 2007
Initials: JHP/PBS/vpm
Mailed: January 5, 2007 (via First Class Mail)



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10/773,094

Music posture chair

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12-26-2006	Disclosure Statement (IDS) Filed	PROSECUTION	3	<input type="checkbox"/>
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07-05-2006	<u>Search Information including classification, databases and other search related notes</u>	PROSECUTION	1	<input type="checkbox"/>
07-05-2006	<u>Index of Claims</u>	PROSECUTION	1	<input type="checkbox"/>
09-22-2005	<u>Status Letter Mailed to Applicant</u>	PROSECUTION	1	<input type="checkbox"/>
09-16-2005	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	2	<input type="checkbox"/>
04-04-2005	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	2	<input type="checkbox"/>
05-24-2004	<u>Oath or Declaration filed</u>	PROSECUTION	3	<input type="checkbox"/>
05-21-2004	<u>Information Disclosure Statement (IDS) Filed</u>	PROSECUTION	8	<input type="checkbox"/>
05-21-2004	<u>Foreign Reference</u>	PRIOR ART	16	<input type="checkbox"/>
05-21-2004	<u>Foreign Reference</u>	PRIOR ART	10	<input type="checkbox"/>
05-21-2004	<u>Foreign Reference</u>	PRIOR ART	20	<input type="checkbox"/>
05-21-2004	<u>Foreign Reference</u>	PRIOR ART	1	<input type="checkbox"/>
05-06-2004	<u>Pre-Exam Formalities Notice</u>	PROSECUTION	2	<input type="checkbox"/>
02-05-2004	<u>Transmittal of New Application</u>	PROSECUTION	2	<input type="checkbox"/>
02-05-2004	<u>Specification</u>	PROSECUTION	15	<input type="checkbox"/>
02-05-2004	<u>Claims</u>	PROSECUTION	8	<input type="checkbox"/>
02-05-2004	<u>Abstract</u>	PROSECUTION	1	<input type="checkbox"/>
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